

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2157 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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UMARBHAI ALIAS UMI YAKUB

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 2157 of 1998
MR EE SAIYED for Petitioner No. 1-2
Mr A J Desai, APP for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2
NOTICE SERVED for Respondent No. 2
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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 15/04/2002

ORAL JUDGEMENT

This is an application filed by the
applicant-original accused under section 482 of the Code

of Criminal Procedure, 1973 (for short, 'the Code') for quashing a FIR being C.R. No.200/98 registered before Salabatpura police station at Surat against the petitioner for offences punishable under section 406 and 420 read with section 114 of IPC. The petitioner states that at the best the FIR shows there is a civil dispute between the parties and there is no element of criminal offence said to have been committed by the petitioner. That therefore, the FIR is required to be quashed and set aside.

2. On receipt of the application, notice was issued at the first instance and rule was issued thereafter. However, the original informant had not thought it proper to appear before the Court. Mr A J Desai, learned APP appears for the State in response to the service of rule. I have heard the learned Advocate for the applicant and learned APP for the State and have perused the papers. The FIR placed at page 8 discloses that the present petitioner had introduced the original informant to part with the goods described in the FIR. It is also alleged in the FIR that by not paying the remaining amount of consideration, the petitioner herein has cheated the original informant. Learned Advocate for the applicant states that the goods were not in accordance with the order placed. This will be a matter between the parties which cannot be decided without recording evidence and in that view of the matter, it cannot be said that no offence has been made out even prima facie. In that view of the matter, it would not be open for this court to quash the FIR very lightly.

3. For the foregoing reasons, this application is ordered to be dismissed. Rule discharged. Interim relief granted earlier stands vacated.

15.4.2002 [D P Buch, J.]

msp